

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

CHARLES GARY BRUCE,)
)
)
Movant,)
)
VS.) No. 16-1188-JDT-egb
)
)
UNITED STATES OF AMERICA,)
)
)
Respondent.)
)

ORDER DISMISSING § 2255 MOTION,
DENYING A CERTIFICATION OF APPEALABILITY,
CERTIFYING AN APPEAL WOULD NOT BE TAKEN IN GOOD FAITH
AND DENYING LEAVE TO APPEAL *IN FORMA PAUPERIS*

The Movant, Charles Gary Bruce, filed a *pro se* motion pursuant to 28 U.S.C. § 2255 on June 27, 2016, attempting to challenge, based on the decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015), his conviction under 18 U.S.C. § 924(c) for using a firearm during the commission of a robbery. (ECF No. 1.) Because Bruce filed a previous § 2255 motion that was unsuccessful, the Court transferred the motion to the Sixth Circuit Court of Appeals as second or successive, pursuant to 28 U.S.C. § 2244(b)(3). (ECF No. 5.)

The Sixth Circuit directed Bruce to complete and file the appropriate application form and required documents within 30 days and warned that failure to do so would result in dismissal of the proceeding. *In re Bruce*, No. 16-6537 (6th Cir. Oct. 14, 2016) (Notice). Bruce failed to comply, and the Sixth Circuit dismissed the proceeding on December 5, 2016. *Id.* (order dismissing case for want of prosecution).

This Court cannot consider Bruce's successive § 2255 motion absent authorization by the Court of Appeals. As Bruce has failed to obtain that authorization, this § 2255 proceeding is hereby DISMISSED.

The Court hereby DENIES a certificate of appealability and CERTIFIES that an appeal would not be taken in good faith. Leave to appeal *in forma pauperis* is also DENIED.

The Clerk is directed to prepare a judgment.

IT IS SO ORDERED.

s/ James D. Todd
JAMES D. TODD
UNITED STATES DISTRICT JUDGE